

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN SENATE JUNE 6, 2016

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE JULY 13, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 806

Introduced by Assembly Members Dodd and Frazier

February 26, 2015

An act to amend Sections 52200.2, 52200.6, 52201, and 52202 ~~of, and to add Section 52204 to, of~~ the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, Dodd. Community development: economic opportunity.

Under existing law, before certain city, county, or city and county property is sold or leased for economic development purposes, approval of the sale or lease by the legislative body by resolution, after a public hearing, is required. Existing law requires that resolution to contain a finding that the sale or lease of the property will assist in the creation of economic opportunity, as defined.

This bill would recast these provisions to instead authorize a city, county, or city and county, with the approval of its legislative body by resolution after a public hearing, to acquire, sell, or lease property in

furtherance of the creation of an economic opportunity, as defined. The bill would require the resolution to contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity and would require the creation of an economic opportunity to be subject to specified public notice and hearing provisions.

Existing law prohibits the use of eminent domain for economic development purposes.

This bill would prohibit a city, county, or city and county from selling, leasing, or otherwise transferring, at a price that is less than the fair market value, for economic development purposes, any real property that was acquired through eminent domain, except as specified.

Existing law authorizes a city, county, or city and county to establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures.

This bill would revise that authorization by requiring the loan to be in the form of a written loan agreement that includes a payment schedule, the terms for interest calculation, the rights and remedies of the parties in case of default, and any other material terms of the loan. The bill would require, prior to entering into that loan agreement, the city, county, or city and county to find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 52200.2 of the Government Code is
- 2 amended to read:
- 3 52200.2. As used in this part “economic opportunity” means
- 4 any of the following:
- 5 (a) Development agreements, loan agreements, sale agreements,
- 6 lease agreements, or other agreements that create, retain, or expand
- 7 new jobs, in which the legislative body finds that the agreement
- 8 will create or retain at least one full-time equivalent, permanent
- 9 job for every thirty-five thousand dollars (\$35,000) of city, county,
- 10 or city and county investment in the project after full capacity and
- 11 implementation.

1 (b) Development agreements, loan agreements, sale agreements,
2 lease agreements, or other agreements that increase property tax
3 revenues to all property tax collecting entities, in which the
4 legislative body finds that the agreement will result in an increase
5 of at least 15 percent of total property tax resulting from the project
6 at full implementation when compared to the year prior to the
7 property being acquired by the government entity.

8 (c) Creation of affordable housing, if a demonstrated affordable
9 housing need exists in the community, as defined in the approved
10 housing element or regional housing needs assessment.

11 (d) Projects that meet the goals set forth in Chapter 728 of the
12 Statutes of 2008 and have been included in an adopted sustainable
13 communities strategy or alternative planning strategy or a project
14 that specifically implements the goals of those adopted plans.

15 (e) Transit priority projects, as defined in Section 21155 of the
16 Public Resources Code.

17 SEC. 2. Section 52200.6 of the Government Code is amended
18 to read:

19 52200.6. (a) (1) This part shall not be interpreted to authorize
20 the use of eminent domain for economic development purposes.

21 (2) For the purposes of this part, a city, county, or city and
22 county shall not sell, lease, or otherwise transfer, at a price that is
23 less than the fair market value, any real property that was acquired
24 through eminent domain. This prohibition shall not apply to any
25 real property governed by a long-range property management plan
26 pursuant to Section 34191.5 of the Health and Safety Code.

27 (b) The creation of an economic opportunity pursuant to this
28 part shall be subject to the provisions of Section 53083.

29 (c) The provisions of this part shall be an alternative to any
30 authority of a city, county, or city and county to create an economic
31 opportunity or to acquire, sell, or lease property for economic
32 development, found in the Constitution, state law, local ordinance,
33 or charter. This part does not limit, or in any way affect, the
34 application of any other such laws.

35 SEC. 3. Section 52201 of the Government Code is amended
36 to read:

37 52201. (a) (1) A city, county, or city and county may acquire
38 property in furtherance of the creation of an economic opportunity.
39 A city, county, or city and county may sell or lease property to
40 create an economic opportunity. The acquisition, sale, or lease

1 shall first be approved by the legislative body by resolution after
2 a public hearing. Notice of the time and place of the hearing shall
3 be published in a newspaper of general circulation in the
4 community at least once per week for at least two successive
5 weeks, as specified in Section 6066, prior to the hearing.

6 (2) The city, county, or city and county shall make available,
7 for public inspection and copying at a cost not to exceed the cost
8 of duplication, a report no later than the time of publication of the
9 first notice of the hearing mandated by this section. This report
10 shall contain both of the following:

11 (A) A copy of the proposed acquisition, sale, or lease.

12 (B) A summary that describes and specifies all of the following:

13 (i) The cost of the agreement to the city, county, or city and
14 county, including land acquisition costs, clearance costs, relocation
15 costs, the costs of any improvements to be provided by the city,
16 county, or city and county, plus the expected interest on any loans
17 or bonds to finance the agreements.

18 (ii) For the sale or lease of property, the estimated value of the
19 interest to be conveyed or leased, determined at the highest and
20 best uses permitted under the general plan or zoning.

21 (iii) For the sale or lease of property, the estimated value of the
22 interest to be conveyed or leased, determined at the use and with
23 the conditions, covenants, and development costs required by the
24 sale or lease. The purchase price or present value of the lease
25 payments which the lessor will be required to make during the
26 term of the lease. If the sale price or total rental amount is less than
27 the fair market value of the interest to be conveyed or leased,
28 determined at the highest and best use, then the city, county, or
29 city and county shall provide as part of the summary an explanation
30 of the reasons for the difference.

31 (iv) An explanation of why the acquisition, sale, or lease of the
32 property will assist in the creation of economic opportunity, with
33 reference to all supporting facts and materials relied upon in
34 making this explanation.

35 (b) The resolution approving the acquisition, sale, or lease shall
36 be adopted by a majority vote unless the legislative body has
37 provided by ordinance for a two-thirds vote for that purpose and
38 shall contain a finding that the acquisition, sale, or lease of the
39 property will assist in the creation of economic opportunity. For

1 the sale or lease of property, the resolution shall also contain one
2 of the following findings:

3 (1) The consideration is not less than the fair market value at
4 its highest and best use.

5 (2) The consideration is not less than the fair reuse value at the
6 use and with the covenants and conditions and development costs
7 authorized by the sale or lease.

8 (c) The provisions of this section are an alternative to any other
9 authority granted by law to cities to dispose of city-owned property.

10 SEC. 4. Section 52202 of the Government Code is amended
11 to read:

12 52202. (a) A city, county, or city and county may loan funds
13 to owners or tenants for the purpose of rehabilitating commercial
14 buildings or structures. The loan shall be in the form of a written
15 loan agreement that includes a payment schedule, the terms for
16 interest calculation, the rights and remedies of the parties in case
17 of default, and any other material terms of the loan.

18 (b) Prior to entering into a loan agreement pursuant to this
19 section, the city, county, or city and county shall find, after a public
20 hearing, that the assistance is necessary for the economic feasibility
21 of the development and that the assistance cannot be obtained on
22 economically feasible terms in the private market.

23 ~~SEC. 5. Section 52204 is added to the Government Code, to~~
24 ~~read:~~

25 ~~52204. The determinations made by a legislative body pursuant~~
26 ~~to this part shall be final and conclusive.~~